

# HERNIEUWD PLEIDOOI VOOR GESPECIALISEERDE MILIEURECHTERS IN BELGIË

25 JAAR TMR, GENT, 1 DECEMBER 2017

## EERDER PLEIDOOI

L. Lavrysen, « Juges de l'environnement spécialisés: une nécessité », in B. Jadot (ed.), *Acteurs et outils du droit de l'environnement. Développements récents, développements (peut-être) à venir*, 2010, Louvain-la-Neuve, Anthemis, 239–247.

# VOLDOENDE MILIEUZAKEN

## SCHATTING

- Milieurecht in ruime zin, inclusief ruimtelijke ordening, bescherming onroerend erfgoed, exploitatie van natuurlijke rijkdommen, hernieuwbare energie
- Burgerlijke zaken: beperkt (15 milieustakingsvorderingen per jaar)
- Strafzaken: + 1000 per jaar ( $\pm$  2% van het totaal aantal, exclusief verkeer)

## SCHATTING

- Bijna 6000 zaken zonder gevolg
- Bijna 12.000 zaken doorverwezen voor administratieve sanctionering
- RvVb : 750 à 1.000
- MHHC: 150
- RvS: 1000

TOTAAL: 2.800 à 3.000 per jaar

# GLOBALE TENDENSEN

## Gebaseerd op:

- G. Pring & C. Pring, ***Greening Justice. Creating and Improving Environmental Courts and Tribunals***, World Resources Institute, Washington, 2009, 119 p.
- G. Pring & C. Pring, ***Environmental Courts & Tribunals: A Guide for Policy Makers***, Nairobi, UN Environment, 2016, 120 p.

## Globale Tendensen

- Explosie van het aantal milieurechtbanken sinds 2000
- Thans meer dan 1200, in 44 landen; discussies in 20 andere landen
- Gestuurd door snelle ontwikkeling van milieurecht en milieurechtelijke beginselen op diverse beleidsniveaus

## Globale Tendensen

- Link tussen milieurecht en mensenrechten (effectieve rechtsbescherming)
- Ernst van de milieu- en klimaatcrisis
- Twijfel of het algemeen gerechtelijk systeem in staat is een effectief antwoord te bieden

## Diversiteit

Grote verschillen tussen diverse systemen: 5 modellen

### **Model 1: Uitgebreide bevoegdheden**

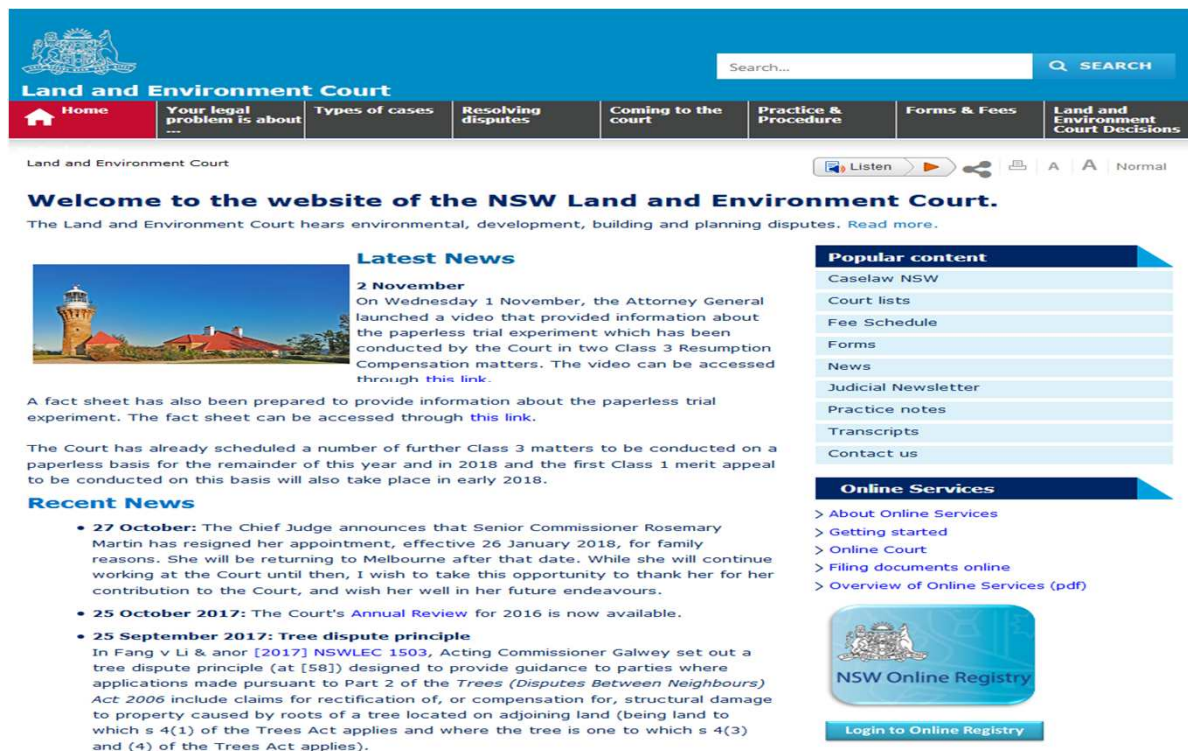
- Administratief, burgerlijk en strafrecht
- Milieurecht in brede zin, ruimtelijke ordening en hernieuwbare energie
- Groot territorium(soms regionale afdelingen of lokale hoorzittingen)

## DIVERSITEIT

- Combinatie van juridische, wetenschappelijke en technische expertise (technische rechters, raadgevers of experts van de rechtbank)

***Land and Environment Court of New South Wales (Australia)***

***National Green Tribunal (India)***



The screenshot shows the official website of the NSW Land and Environment Court. The header features the court's name and a navigation menu with links to Home, Your legal problem is about, Types of cases, Resolving disputes, Coming to the court, Practice & Procedure, Forms & Fees, and Land and Environment Court Decisions. A search bar is also present. The main content area welcomes visitors and provides information about the court's jurisdiction. It includes a 'Latest News' section with a date of 2 November and a 'Recent News' section with dates from October 2017 to September 2017. A 'Popular content' sidebar lists various resources like Caselaw NSW, Court lists, and Forms. An 'Online Services' sidebar offers links to About Online Services, Getting started, Online Court, Filing documents online, and Overview of Online Services (pdf). At the bottom, there is a logo for the NSW Online Registry and a link to login.

**Land and Environment Court**

Search...

**Home** Your legal problem is about Types of cases Resolving disputes Coming to the court Practice & Procedure Forms & Fees Land and Environment Court Decisions

Land and Environment Court

**Welcome to the website of the NSW Land and Environment Court.**

The Land and Environment Court hears environmental, development, building and planning disputes. [Read more.](#)

**Latest News**

**2 November**

On Wednesday 1 November, the Attorney General launched a video that provided information about the paperless trial experiment which has been conducted by the Court in two Class 3 Resumption Compensation matters. The video can be accessed through [this link](#).

A fact sheet has also been prepared to provide information about the paperless trial experiment. The fact sheet can be accessed through [this link](#).

The Court has already scheduled a number of further Class 3 matters to be conducted on a paperless basis for the remainder of this year and in 2018 and the first Class 1 merit appeal to be conducted on this basis will also take place in early 2018.

**Recent News**

- **27 October:** The Chief Judge announces that Senior Commissioner Rosemary Martin has resigned her appointment, effective 26 January 2018, for family reasons. She will be returning to Melbourne after that date. While she will continue working at the Court until then, I wish to take this opportunity to thank her for her contribution to the Court, and wish her well in her future endeavours.
- **25 October 2017:** The Court's [Annual Review](#) for 2016 is now available.
- **25 September 2017: Tree dispute principle**

In *Fang v Li & anor* [2017] NSWLEC 1503, Acting Commissioner Galwey set out a tree dispute principle (at [58]) designed to provide guidance to parties where applications made pursuant to Part 2 of the *Trees (Disputes Between Neighbours) Act 2006* include claims for rectification of, or compensation for, structural damage to property caused by roots of a tree located on adjoining land (being land to which s 4(1) of the *Trees Act* applies and where the tree is one to which s 4(3) and (4) of the *Trees Act* applies).

**Popular content**

- Caselaw NSW
- Court lists
- Fee Schedule
- Forms
- News
- Judicial Newsletter
- Practice notes
- Transcripts
- Contact us

**Online Services**

- > [About Online Services](#)
- > [Getting started](#)
- > [Online Court](#)
- > [Filing documents online](#)
- > [Overview of Online Services \(pdf\)](#)

**NSW Online Registry**

[Login to Online Registry](#)



# National Green Tribunal

Faridkot House, Copernicus Marg, New Delhi-110001

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- ❖ CASE STATUS
- ❖ CAUSE LIST
- ❖ DAILY ORDERS
- ❖ DISPLAY BOARD
- ❖ E-FILING
- ❖ GAZETTE NOTIFICATIONS
- ❖ INTERNATIONAL CONFERENCE
- ❖ INTERNSHIP PROGRAMME
- ❖ JUDGES ROSTER/WEEKLY CAUSELIST
- ❖ JUDGEMENTS
- ❖ NGT ACT / RULES
- ❖ OFFICE ORDERS
- ❖ PUBLICATION
- ❖ PUBLIC COMPLAINTS
- ❖ PUBLIC NOTICES
- ❖ RIGHT TO INFORMATION
- ❖ TELEPHONE DIRECTORY
- ❖ TENDERS
- ❖ WORKING HOURS/SITTING HOURS



[Click here to view International Conference on Environment 2017\(Live from 3rd Nov 2017\)](#)

### Important Orders

al Application No. 21/2014 Vardhaman Kaushik Vs. Union of India orders dated 18th July 2016 | [Click here to see Or](#)

Home

The National Green Tribunal has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.

[Read More](#)

### Latest Announcements

- ❖ Notice International Conference on Environment- November 2017
- 17-Oct-2017**
- ❖ Empanelment of Registered Suppliers for providing different items at NGT Principal Bench New Delhi
- 12-Oct-2017**
- ❖ Rescheduling the sitting of Special Circuit Bench

[View All](#)

## DIVERSITEIT

### Model 2 + 3: Beperkte bevoegdheden

Model 2 : combinatie van administratieve en civiele bevoegdheden – milieu- en ruimtelijke ordening, geen energierecht – juridische en technische expertise – ruim territorium

***Vermont Superior Court, Environmental Division (US) – Land- and Environmental Courts (Sweden) -Tribunal Ambiental (Chile) – Environment and Land Court (Kenya)***

Ministra suplente Ximena Insunza participó en seminario "Fiscalización y sanción ambiental en Chile: propuestas y desafíos"

**Transmisiones**  
(Live Streaming)

**CONSULTA DE CAUSAS**

**SENTENCIAS**

**NOTICIAS**

Tribunal Ambiental escuchó alegatos en dos demandas por reparación de daño ambiental contra Minera Maricunga por desecamiento de humedales en la región de Atacama

**SENTENCIA R-40-2014**

Tribunal Ambiental de Santiago confirmó rechazo del Comité de Ministros a la RCA del Proyecto Hidroaysén

**SEMINARIOS**

**ESTADO DIARIO**

**AVISOS**

05 NOVIEMBRE, 2017

Admite a trámite reconstrucción, BELSA S.A. Solicita Exoneración de Pago de Explotación Ambiental R-147-0957, de fecha 20 de agosto de 2017.

Expediente >>>

26 OCTUBRE, 2017

Admite a trámite reclamos, Consejo Comunal y Social del Medio Ambiente y el Comité de Gestión de Incentivos. Evento 17-0585 del 04 de septiembre de 2017.

Expediente >>>

24 OCTUBRE, 2017

Admite a trámite reclamos, Ministro Ricardo Lagos Escobar y Jefe de División Asesoría del Comité de Gestión de Incentivos. Evento 17-0585, de 04 de septiembre de 2017.

Expediente >>>

**AUDIENCIAS**

06/12/2017, 10:30 hrs.  
R-186-2017.

12/12/2017, 10:30 hrs.  
R-186-2017.

06/12/2018, 10:30 hrs.  
R-181-2017.

**ENVIRONMENTAL COURT**

**SEMINARIOS**

**UNIVERSITEIT GENT**

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## DIVERSITEIT

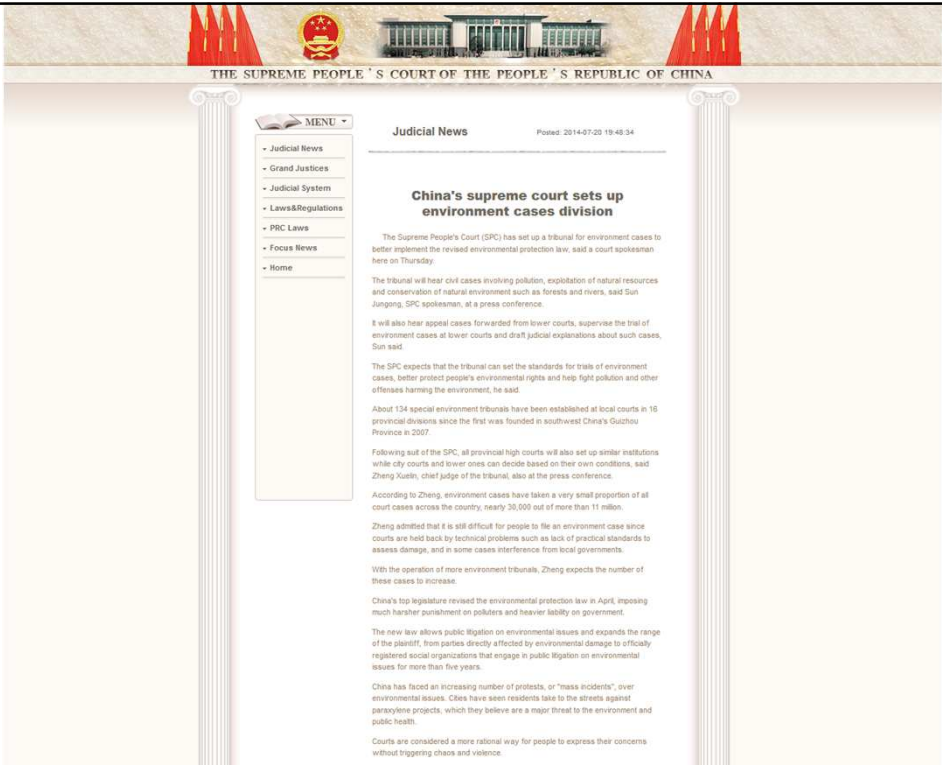
**Model 3 : combinatie van burgerlijk en strafrecht  
± 450 milieurechtbanken in PR China**

**Model 4 : gespecialiseerde administratieve  
rechtbanken**

***Vasaa Court* (Finland), *Environmental Court of New Zealand*,  
*Raad voor Vergunningsbetwistingen* en *Milieuhandhavingscollege***

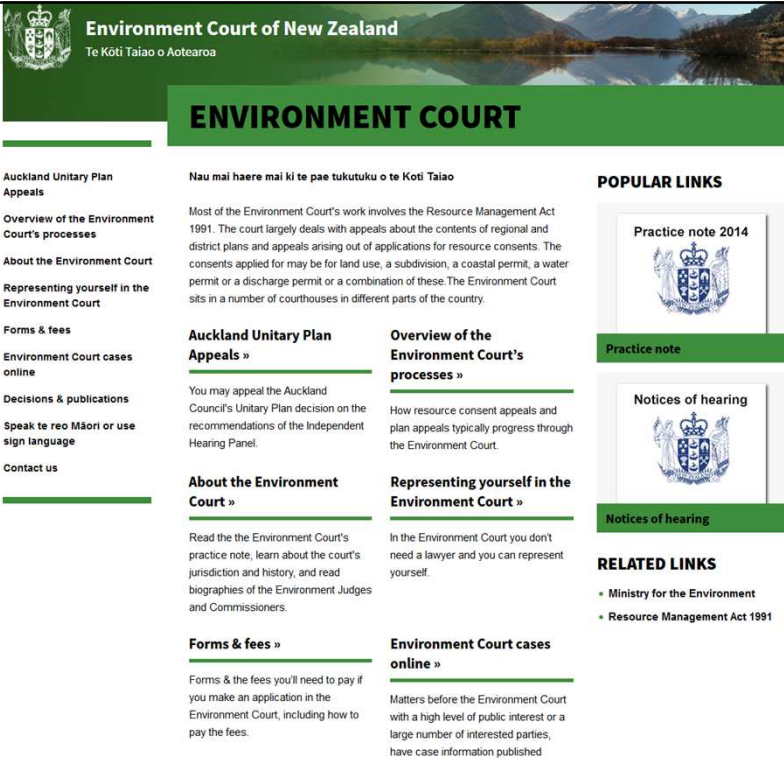
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THE SUPREME PEOPLE'S COURT OF THE PEOPLE'S REPUBLIC OF CHINA

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Environment Court of New Zealand  
Te Kōti Taiao o Aotearoa

## ENVIRONMENT COURT

**Auckland Unitary Plan Appeals**

**Overview of the Environment Court's processes**

**About the Environment Court**

**Representing yourself in the Environment Court**

**Forms & fees**

**Environment Court cases online**

**Decisions & publications**

**Speak to reo Māori or use sign language**

**Contact us**

**Nau mai haere mai ki te pae tukutuku o te Kōti Taiao**

Most of the Environment Court's work involves the Resource Management Act 1991. The court largely deals with appeals about the contents of regional and district plans and appeals arising out of applications for resource consents. The consents applied for may be for land use, a subdivision, a coastal permit, a water permit or a discharge permit or a combination of these. The Environment Court sits in a number of courthouses in different parts of the country.

**Auckland Unitary Plan Appeals »**

You may appeal the Auckland Council's Unitary Plan decision on the recommendations of the Independent Hearing Panel.

**About the Environment Court »**

Read the the Environment Court's practice note, learn about the court's jurisdiction and history, and read biographies of the Environment Judges and Commissioners.

**Forms & fees »**

Forms & the fees you'll need to pay if you make an application in the Environment Court, including how to pay the fees.

**Overview of the Environment Court's processes »**

How resource consent appeals and plan appeals typically progress through the Environment Court.

**Representing yourself in the Environment Court »**

In the Environment Court you don't need a lawyer and you can represent yourself.

**Environment Court cases online »**

Matters before the Environment Court with a high level of public interest or a large number of interested parties, have case information published

**POPULAR LINKS**

**Practice note 2014**

**Practice note**

**Notices of hearing**

**Notices of hearing**

**RELATED LINKS**

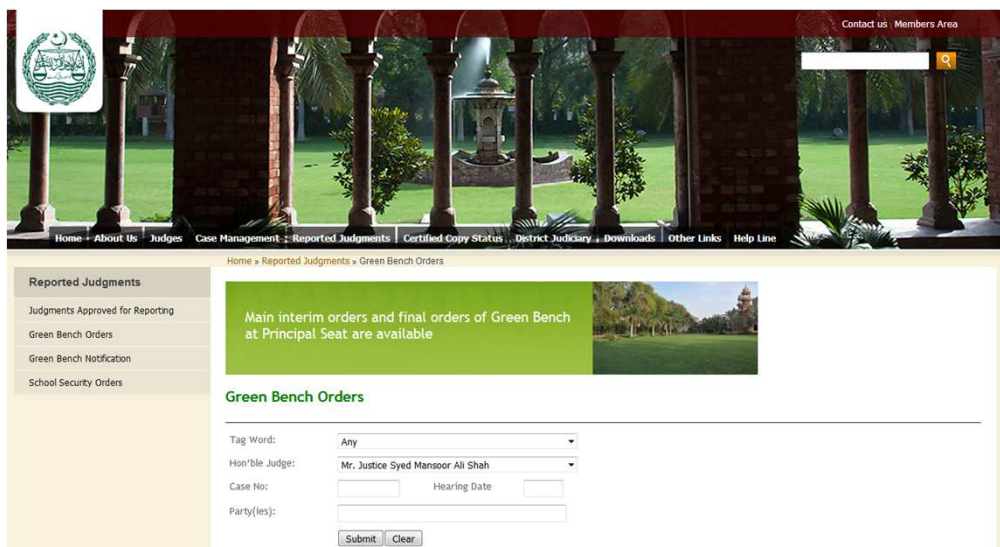
- Ministry for the Environment
- Resource Management Act 1991

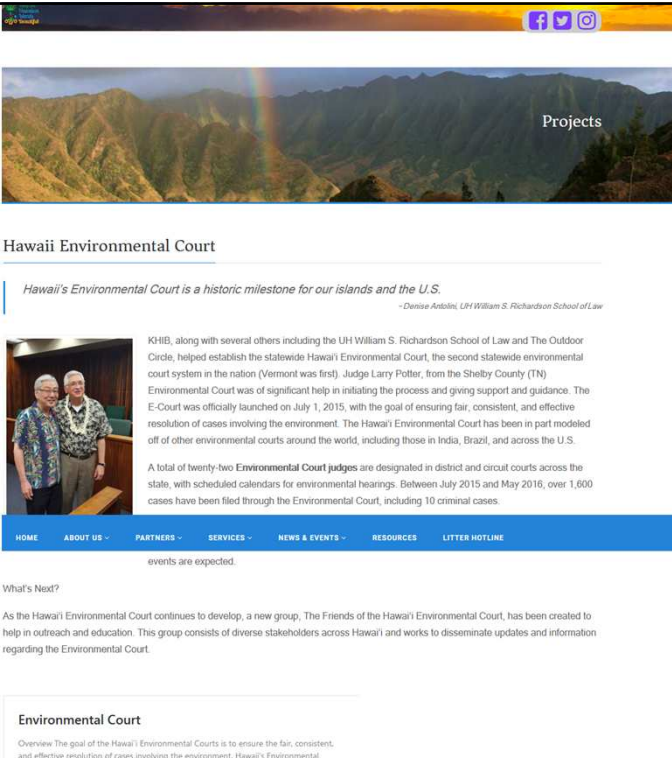
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## DIVERSITEIT

### - Model 5 – Gespecialiseerde afdelingen van gewone rechtscolleges

***Environmental Courts*** (Philippines), ***Lahore High Court Green Bench*** (Pakistan), ***Hawai'i Environmental Courts***





**Hawaii Environmental Court**

*Hawaii's Environmental Court is a historic milestone for our islands and the U.S.*  
- Denise Antolin, UH William S. Richardson School of Law

KHBB, along with several others including the UH William S. Richardson School of Law and The Outdoor Circle, helped establish the statewide Hawaii Environmental Court, the second statewide environmental court system in the nation (Vermont was first). Judge Larry Potter, from the Shelby County (TN) Environmental Court was of significant help in initiating the process and giving support and guidance. The E-Court was officially launched on July 1, 2015, with the goal of ensuring fair, consistent, and effective resolution of cases involving the environment. The Hawaii Environmental Court has been in part modeled off of other environmental courts around the world, including those in India, Brazil, and across the U.S.

A total of twenty-two **Environmental Court judges** are designated in district and circuit courts across the state, with scheduled calendars for environmental hearings. Between July 2015 and May 2016, over 1,600 cases have been filed through the Environmental Court, including 10 criminal cases.

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events are expected.

**What's Next?**

As the Hawaii Environmental Court continues to develop, a new group, The Friends of the Hawaii Environmental Court, has been created to help in outreach and education. This group consists of diverse stakeholders across Hawaii and works to disseminate updates and information regarding the Environmental Court.

**Environmental Court**

Overview The goal of the Hawaii Environmental Courts is to ensure the fair, consistent, and effective resolution of cases involving the environment. Hawaii's Environmental

## VOORDELEN

- **expertise:** betere beslissingen dankzij een grondige opleiding in het milieurecht en in de milieuwetenschappen;
- **doeltreffendheid:** snellere besluitvorming tengevolge van de opbouw van knowhow;
- **zichtbaarheid:** de oprichting van milieurechtbanken geeft aan dat het beleid de milieubescherming en de duurzame ontwikkeling ernstig neemt en er wordt een voor het publiek zichtbaar jurisdictioneel forum ter beschikking gesteld;
- **kosten:** de milieurechtbanken hebben de neiging de kosten voor de partijen te beperken;

## VOORDELEN

- *eenheid van rechtspraak*: een grotere eenvormigheid in de rechtspraak kan bekomen worden, wat bijdraagt tot de rechtszekerheid;
- *toegang tot de rechter*: de criteria inzake hoedanigheid en belang kunnen aangepast worden aan het milieucontentieux;
- *beheer van de prioriteiten*: het is makkelijker om voorrang te geven aan de meest dringende zaken;
- *innovatie*: creatieve remedies en meer flexibele procedures kunnen ontwikkeld worden;
- *ADR*: er is meer ruimte om alternatieve procedure voor geschillenbeslechting toe te passen;

## VOORDELEN

- *geïntegreerde remedies*: sancties en herstelmaatregelen van strafrechtelijke, civiele en administratieve aard kunnen op geïntegreerde wijze gecombineerd worden
- Afhankelijk van concrete vormgeving
- Nationale tradities en grondwettelijke vereisten meebepalend
- Potentiële nadelen, kunnen door intelligente vormgeving voorkomen worden

## BELGIË ?

- 2 Milieurechtbanken (1 F, 1 N)
- 1 Milieuhof van Beroep
- Juridische, wetenschappelijke en technische expertise
- Administratief, civiel en strafrecht

Drempels:

- Scheiding administratieve en gewone rechtscolleges (grondwettelijk verankerd)
- Vlaamse drang om eigen administratieve rechtscolleges op te richten
- Recente hervorming van het gerechtelijk landschap

## BELGIË ?

- Er kunnen stappen gezet worden op strafrechtelijke en burgerlijk vlak
- Advies HRJ 20 september 2009 – Oprichting Afdeling Milieu in de provinciale rechtbank
- Zaakverdelingsreglement
  - Rb. Antwerpen (afdeling Antwerpen), Luik (afdeling Hoei), West-Vlaanderen (afdeling Kortrijk), Luxemburg (afdeling Arlon)
- Alle stapjes in de goede richting zijn welgekomen....

**.... maar hopelijk duurt het geen 25 jaar vooraleer we dit bij ons kunnen vieren:**



 FACULTEIT  
RECHT EN CRIMINOLOGIE

Luc Lavrysen

Hoogleraar

CENTRUM VOOR MILIEU- EN ENERGIERECHT

E luc.lavrysen@ugent.be

[www.ugent.be](http://www.ugent.be)



Universiteit Gent



@ugent



Ghent University